against him. *Louisville, Albany & Chicago R. R. v. Wright,* 115 Ind. 378. Adversely as to the compromise admitting liability and endeavoring to settle, an offer of compromise is inadmissible in evidence, but an incidental and independent admission of fact, such as the handwriting of the party, is admissible. *Whitney v. Cleveland,* 13 Idaho 538. However, a letter written by the defendant to the plaintiff, proposing to settle for trespass, is proper evidence to go to the jury that they may determine whether it is an admission of the trespass or only a proposition to buy the plaintiff's peace. *Trussel v. Knowles,* 5 Miss. 90.

INJUNCTION—NUISANCE—SUNDAY BASEBALL.—MCMILLAN V. KUEHNLE, 73 ATL. 1054 (N. J.).—*Held,* that the playing of baseball on Sunday will be enjoined if it be made to appear that the noise and disorderly conduct attendant upon the games amounts to a nuisance in the neighborhood, whereby the peace and quiet of Sunday is disturbed, and the rest which the complainants are entitled to enjoy on that day is appreciably affected.

The general ruling has been that the public has the right of enjoying Sunday as a day of rest, free and clear of all disturbance from unnecessary and unallowed worldly employment. *Commonwealth v. Scully,* 35 Pa. (11 Casey) 511; *Clough v. Shepherd,* 31 N. H. 490. So that in cases of public nuisances a petition for an injunction can be maintained by an individual because of special damage peculiar to himself and distinct from that done to the public at large. *Allen v. Board of Chosen Freeholders of the County of Monmouth,* 13 N. J. Eq. 68. To warrant the allowance of an injunction, however, it must clearly appear that some act has been done which will produce irreparable injury to the party asking an injunction. *Vaughan v. Bowie,* 30 Ark. 278. And an injury is considered irreparable when the party injured cannot be adequately compensated, or when the damages resulting cannot be measured by any certain pecuniary standard. *Kerlin v. West,* 4 N. J. Eq. 449. Hence, owners of land adjoining an inclosed ground, to which admission is charged to see baseball games, which are a detriment to the peace of the Sabbath, may obtain an injunction, though several years, before the ground was fenced off, persons had played ball there on Sunday. *Seastream v. New Jersey Exposition Co.,* 67 N. J. Eq. 178. Also the noise caused by the shouts, cheers and stamping of feet of spectators at Sunday ball games, even though constituting a public nuisance, will be enjoined at the suit of individuals living in the neighborhood, it being such as to appreciably disturb their rest and quiet. *Gilbough v. West Side Amusement Co.,* 64 N. J. Eq. 27. Again a court of equity has jurisdiction to protect by injunction a dwelling house against a nuisance occasioned by the playing of Sunday baseball, which renders the house uncomfortable, though the existence of such a nuisance is disputed at law. *Cronin v. Bloemecke,* 58 N. J. Eq. 313.

INTOXICATING LIQUORS—SALES ON SUNDAY—LIABILITY—SALE BY AGENT—EVIDENCE OF AUTHORITY—LIABILITY OF PRINCIPAL FOR SALE BY AGENT.—OLLRE *v.* STATE, 123 S. W. 1116 (TEX.)—*Held,* that under Act 30th Leg., p. 266, c. 138, sect. 19, punishing every liquor dealer knowingly

selling intoxicating liquor to any minor, or suffering the same to be done, and section 20, providing that any sale made to any minor or on Sunday by any agent or other person acting for any retailer, when considered together and made to harmonize, proof of a sale by an agent does not make a liquor dealer criminally liable when the sale is made at his place of business by one assuming to act as his agent, where he shows, either that such person was not his agent, or that the sale was made in violation of his orders. Ramsey, J., *dissenting.*

The defense may be that the servant made the unlawful sale unauthorized, giving rise to a presumption of innocence even in cases of illegal liquor selling. *Commonwealth v. Briant,* 142 Mass. 463. So where the defendant kept a general store and in his absence the clerk sold liquor, the proprietor was not held liable. *Grosch v. City of Centralia,* 6 Ill. App. 107. If against the express instructions of the employer, the latter is not to be held. *Lathrope v. State,* 51 Ind. 192. But in some jurisdictions where the clerk sells to minors, there is no defense even though the defendant gave instructions against it. *Mogler v. State,* 47 Ark. 109. The employer is not liable for sales made on Sunday without proof of authority express or implied, if the agent is employed only to work on week days. *State v. Burke,* 15 R. I. 324.

MASTER AND SERVANT—DEATH OF SERVANT—"FELLOW SERVANTS"—SECTION HAND WITH ENGINEER.—DEGONIA V. ST. LOUIS, I. M. & S. RY., 123 S. W. 807 (MO.).—*Held,* that a section hand working on a railroad track is not a fellow servant of the engineer of a passenger train by which he was killed. Valliant, Lamm, J. J., *dissenting.*

In determining who are fellow servants it is generally held that where a servant is employed in a department of a general service which is separate and distinct from that of the servant or servants whose negligence caused injury, the fellow servant rule does not apply and the master is liable. *Sullivan v. Mo. Pac. Ry.,* 97 Mo. 113. However, in *H. & T. C. Ry. Co. v. Rider,* 62 Tex. 267, it was held where several serve the same employer, work under the same control, deriving their authority and compensation from the same common source, they are fellow servants, though their labor may be performed in different departments of the same common service. One servant can not maintain an action against the common master for injury caused by carelessness or negligence of another engaged in same service, where competent servants have been employed. *Ill. Cent. Ry. v. Cox,* 21 Ill. 29. But the fact that the negligence of a fellow servant concurs with the negligence of the master in causing the injury to the servant does not exempt the master from liability for his neglect. *Merril v. Oregon Short Line Ry. Co.,* 29 Utah, 264. In a similar case, *Connally v. Minneapolis Eastern Ry. Co.,* 38 Minn. 80, it was held that a section hand was a fellow servant of an engineer and that a railway company was not liable for negligence of engineer or brakeman of the train.

MUNICIPAL CORPORATIONS—DEFECTS IN STREET—REASONABLY SAFE FOR PUBLIC TRAVEL.—NORTHRUP V. CITY OF PONTIAC, 123 N. W. REP. 1107